APPENDIX 1

IN THE SUPERIOR COURT OF THE

STATE OF WASHINGTON FOR KING COUNTY

CLYDE C. COFFEY, Plaintiff, vs. STATE OF WASHINGTON, Department of Social and Health Services, Defendant.	NO. 863246 JUDGMENT DENYING MOTION TO AMEND COMPLAINT TO INCLUDE CLAIM UNDER 42 USC §1983

This matter having duly come on for trial on the 9th day of December, 1980, before the undersigned judge of the above-entitled court, plaintiff appearing by his attorney Robert H. Stevenson and Robert Schmitt, and defendant by its attorneys Slade Gorton, Attorney General and Roger A. Gerdes, Assistant Attorney General, and plaintiff having moved to amend its complaint to include a claim under 42 U.S.C. §1983 as set forth in the "third cause of

action" of his "Supplemental Notice of Trial Amendment" dated June 17, 1980, and filed herein, and this court having heard and considered argument of counsel and having considered the records and file herein, including:

1) Plaintiff's Summons and Complaint
2) Defendant's Answer, Affirmative Defenses and Motion to Dismiss,
3) Plaintiff's Supplemental Notice of Trial Amendment (dated June 17, 1980)
4) Plaintiff's Trial Memorandum
5) Defendant's Memorandum Supporting Dismissal
6) Defendant's Trial Brief;

and having read and considered inter alia, decisions in Edgar v. State 92 Wn 2d 217 (1979); Owen v. Independence U.S. L.Ed2d 673 (1980); and the court concluding that the word "person" as used in 42 U.S.C. §1983 does not include states and that the defendant State of Washington is not suable under §1983, now therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, That 42 U.S.C. §1983 may not be the

basis of a cause of action by plaintiff against the State of Washington, and plaintiff's motion to amend his complaint to include the "third cause of action" set forth in his "Supplemental Notice of Trial Amendment" is therefore denied.

The Court further finds pursuant to CR 54(b), that in this action plaintiff has presented more than one claim for relief, that there is no just reason for delay, and that this partial judgment barring any 42 U.S.C. §1983 claim by plaintiff against the State of Washington, involves a fundamental and urgent issue of broad public import requiring prompt and ultimate determination, and that this judgment should be entered as a final and appealable judgment as to that claim, Now Therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED,

that this is a final and appealable

judgment barring any claim by plaintiff against defendant State of Washington under 42 U.S.C. §1983.

It is Further Ordered, Adjudged and Decreed that, pursuant to the stipulation of both parties orally made in open court, this matter shall remain assigned to the undersigned Judge of this court, and will be returned to his court for any further proceedings and trial, if necessary, after completion of the appeal or other appellate review, if any, of this judgment, and that the parties may engage in further pretrial discovery pending and during such appeal and that the undersigned Judge shall retain jurisdiction for the limited purposes of determining and supervising issues which may arise in the course of such discovery while such appeal is pending.

DONE IN OPEN COURT this 17th day of

December, 1980.

William Goodloe
JUDGE

Presented by:

Robert Stevenson or Robert Schmitt
Attorneys for Plaintiff

Copy Received and Notice of
Presentation Waived:

Slade Gorton
Attorney General

Roger A. Gerdes,
Assistant Attorney General

APPENDIX 2

IN THE COURT OF APPEALS
OF THE
STATE OF WASHINGTON

CLYDE C. COFFEY, Appellant, v. STATE OF WASHINGTON and the Department of Social and Health Services, State of Washington, Respondent.	No. 10553-1-I COMMISSIONER'S RULING DISMISSING APPEAL

The above-entitled appeal was transferred to Division I of the Court of Appeals from the Supreme Court on July 22, 1981. By letter dated July 27, 1981, counsel were advised that in view of the decision in Doerflinger v. New York Life Ins. Co., 88 Wn2d 878, 567 P.2d 230 (1977), a court's motion to dismiss the appeal as from a non-appealable order would be heard on August 28, 1981. Appellant Clyde C. Coffey filed a memorandum in opposition to the court's motion on August 18, 1981.

Counsel for appellant having appeared, and the commissioner having reviewed the records and files in this court, and having determined that appellant seeks review of "that certain Judgment Denying Motion to Amend Complaint to Include Claim Under 42 U.S.C. 42 §1983", and it appearing that the claim under Section 1983 is based upon the same allegations and does not give rise to a separate set of facts, and that the appeal is from a separate theory of recovery and not a separate claim as required under CR 54(b) and RAP 2.2(d); now, therefore, it is hereby

ORDERED that the above-entitled appeal is dismissed.

Done this 15th day of September, 1981.

Larry A. Jordan
Court Commissioner

APPENDIX 3

THE SUPREME COURT
STATE OF WASHIGTON
OLYMPIA

June 30, 1982

Mr. Robert Stevenson
Attorney at Law
1104 Dexter Horton Bldg.
Seattle, Washington 98104

Office of the Attorney General
Mr. Roger A. Gerde, Asst.
Dexter Horton Bldg.
Seattle, Washington 98104

Counsel:

Re: Supreme Court No. 48709-0- Coffey v. DSHS
Court of Appeals No. 10553-1-I

Following consideration of the above entitled Petition for Review on June 30, 1982, the following notation order was entered on page 210, Volume 2, of the Petition for Review Docket:

"DENIED"

/s/ Robert F. Brachtenbach
Chief Justice

Very truly yours,

John J. Champagne
Clerk

APPENDIX 4

IN THE COURT OF APPEALS
OF THE
STATE OF WASHINGTON

CLYDE C. COFFEY, Appellant, v. STATE OF WASHINGTON AND the DEPARTMENT OF SOCIAL AND HEALTH SERVICES, STATE OF WASHINGTON, Respondent.	MANDATE No. 10553-1-I King County No. 863246

The State of Washington to: The Superior Court of the State of Washington in and for King County.

This is to certify that the Court of Appeals of the State of Washington, Division I, considered and granted a motion to dismiss the appeal in the above entitled case on September 15, 1981. Accordingly, this cause is mandated to the Superior Court from which this appeal was taken for further proceedings in accordance with the determination of that court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Seattle, this 14th day of July, 1982.

Richard D. Taylor
Clerk of the Court of
Appeals, State of Washington, Division I

cc: Mr. Robert H. Stevenson
Office of the Attorney General
Mr. Roger A. Gerde, Asst.